

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION**

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In re: )  
DAVID MICHAEL MOBLEY ) Case No. 22-60004  
                        ) Chapter 11  
Debtor.                 )  
                        )

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**DEBTOR'S RESPONSE TO MOTION TO CONVERT CASE**

TO THE HONORABLE U.S. BANKRUPTCY COURT:

David Michael Mobley (the “*Debtor*”) hereby files this Response to Motion to Convert Case.

**Introductory Statement**

In his recent Motion to Dismiss Case, Debtor characterized this case as a two-party dispute better resolved outside of bankruptcy. The Motion to Convert case reinforces this premise. The QLRS parties have failed to establish a claim against the Debtor in nearly a decade of litigation. They may have a multi-million dollar claim or they may have no claim at all. It seems likely that this Motion to Convert is aimed more at gaining a litigation advantage than in pursuing any creditor interest they may hold.

**Specific Admissions and Denials**

1. Debtor denies the allegations of para. 1.
2. Debtor admits the allegations of para. 2.
3. Debtor admits the allegations of para. 3.
4. Debtor admits the allegations of para. 4.
5. Paragraph 5 is legal argument and does not require admission or denial.

6. Debtor admits that he executed a deed in lieu of foreclosure to Reb TX EC Ventures, LLC, a lienholder upon such properties. Regardless of the secured claim asserted by the IRS in this bankruptcy case, the IRS had filed a tax lien for over \$3 million. Debtor denies the remainder of para. 6.

7. Debtor admits that he justified the transfer based on the fact that the property was fully encumbered. Debtor denies the remainder of para. 7.

8. Debtor admits the allegations of para. 8.

9. Debtor denies the allegations of para. 9.

10. Debtor admits that he has claimed the 77 acres as his homestead and that he has not objected to the claim of First Financial Bank. Debtor denies the remainder of para. 10.

11. Debtor admits that the homestead issue has not been resolved by the Court. Debtor denies the remainder of para. 11.

12. Debtor denies the allegations of para. 12.

13. Debtor denies the allegations of para. 13.

14. Debtor admits that he received \$55,000. The funds were transferred to him in error. Debtor then transferred the funds so that they could be directed to the proper party.

15. Debtor admits that he transferred the sum of \$802,662.66. These were funds from sale of Debtor and his wife's prior homestead. Under a prenuptial agreement, his wife was entitled to half of the proceeds. Debtor denies the remainder of para. 15.

16. Debtor denies the first sentence of para. 16. Debtor admits that he has not yet filed the Reports under Rule 2015.3. Debtor will provide these reports.

17. Debtor denies the allegations of para. 17.

18. Debtor denies the allegations of para. 18.

19. Debtor admits the allegations of para. 19.
20. Debtor admits the allegations of para. 20 in part. Section 704(a)(8) and Rule 2015(a)(3) refer to a business operated by the Debtor. The Debtor does not operate a business. Rule 2015.3 refers to filing summary reports with respect to businesses in which the Debtor has an interest.
21. Para. 21 is legal argument which does not require admission or denial.
22. Debtor admits that he has not yet filed Rule 2015.3 reports. The rule requires “periodic” reports but does not specify what the periodic reporting requirement is.
23. Debtor admits that he has filed the required monthly operating reports for himself and has not yet filed the Rule 2015.3 reports for his companies. Debtor denies the remainder of para. 23.
24. Debtor denies the allegations of para. 24.
25. Debtor admits the allegations of para. 25.
26. Debtor admits that the Court denied the Debtor’s subchapter V election. Debtor denies the remainder of para. 26.
27. Debtor denies the allegations of para. 27.
28. Debtor admits the allegations of para. 28.
29. Debtor admits the allegations of para 29.
30. Debtor admits that the Court has cause to take one of the actions listed.
31. Debtor admits the first sentence of para. 31. The remainder of para. 31 is a quotation from an opinion which the Debtor is not required to admit or deny.
32. Debtor denies the allegations of para. 32.
33. Debtor denies the allegations of para. 33.

34. Debtor admits the first sentence of para. 34. The remainder of para. 34 is legal argument which does not require admission or denial.
35. Debtor denies the allegations of para. 35.
36. Debtor admits that he has scheduled assets of \$3,779,470.71. Debtor denies the remainder of para. 36.
37. Debtor denies the allegations of para. 37.
38. Debtor admits that Texas Mats is paying his wife. Debtor denies the remainder of para. 38.
39. Debtor denies the allegations of para. 39
40. Debtor admits that courts have inherent authority to convert cases for lack of good faith. The remainder of para. 40 is legal argument which does not require admission or denial.
41. Debtor denies the allegations of para. 41.
42. Debtor denies the allegations of para. 42.
43. Debtor admits the allegations of para. 43.
44. Para. 44 is legal argument which does not require admission or denial.
45. Para. 45 is legal argument which does not require admission or denial.
46. Debtor denies the allegations of para. 46.
47. Debtor denies the allegations of para. 47.
48. Debtor denies the allegations of the paragraph entitled Conclusion.
49. Debtor requests that this case be dismissed rather than converted.

Respectfully submitted,

**BARRON & NEWBURGER, P.C.**  
7320 N. MoPac Expressway., Suite 400  
Austin, Texas 78731  
(512) 476-9103  
(512) 279-0310 (Facsimile)  
[ssather@bn-lawyers.com](mailto:ssather@bn-lawyers.com)  
By: /s/Stephen W. Sather  
Stephen W. Sather  
State Bar No. 17657520

**CERTIFICATE OF SERVICE**

By my signature below, I hereby certify that I served the above and foregoing Motion on the parties listed on the attached matrix on this the 6<sup>th</sup> day of October 2022.

/s/Stephen W. Sather  
Stephen W. Sather

Label Matrix for local noticing

0541-6

Case 22-60004

Southern District of Texas

Victoria

Fri Jul 29 13:32:03 CDT 2022

Fort Bend County

Linebarger Goggan Blair &amp; Sampson LLP

c/o Jeannie Lee Andresen

P.O. Box 3064

Houston, TX 77253-3064

First Financial Bank, N.A.

P.O. BOX 3679

Abilene, TX 79604-3679

Ford Motor Credit Company LLC

Devlin, Naylor &amp; Turbyfill, P.L.L.C.

c/o George F. Dunn

5120 Woodway Dr., Ste. 9000

Houston, TX 77056-1725

Quality Lease and Rental Holdings, LLC

c/o Walter J. Cicack

Hawash Cicack &amp; Gaston LLP

3401 Allen Parkway, Suite 200

Houston, TX 77019-1857

Quality Lease Rental Service, LLC

c/o Walter J. Cicack

Hawash Cicack &amp; Gaston LLP

3401 Allen Parkway, Suite 200

Houston, TX 77019-1857

Quality Lease Service, LLC

c/o Walter J. Cicack

Hawash Cicack &amp; Gaston LLP

3401 Allen Parkway, Suite 200

Houston, TX 77019-1857

Texas Quality Mats, LLC

P.O. Box 168

El Campo, TX 77437-0168

Rocaceia, LLC

c/o Walter J. Cicack

Hawash Cicack &amp; Gaston LLP

3401 Allen Parkway, Suite 200

Houston, TX 77019-1857

Texas Champion Bank

c/o Mike Thiltgen

P.O. Box 270550

Corpus Christi, TX 78427-0550

Texas Quality Mats, LLC

P.O. Box 168

El Campo, TX 77437-0168

Wharton County, Texas

c/o Tara LeDay

P.O. Box 1269

Round Rock, TX 78680-1269

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United States Bankruptcy Court

PO Box 61010

Houston, TX 77208-1010

AT&amp;T Corp

PO Box 5072

Carol Stream, IL 60197-5072

Allan Martin

c/o REID, COLLINS, &amp; TSAI LLP

1301 S. Capital of Texas Hwy Building C

Austin, TX 78746-6550

Bank of America

P.O. Box 15284

Wilmington, DE 19850-5284

Bank of America, N.A.

PO Box 673033

Dallas, TX 75267-3033

Enhanced Recovery

8014 Bayberry Rd.

Jacksonville, FL 32256-7412

FORD CREDIT

PO BOX 650575

Dallas, TX 75265-0575

First Financial Bk Min

Po Box 2559

Abilene, TX 79604-2559

First State Bank - Louise

Card Service Center

PO Box 569120

Dallas, TX 75356-9120

Ford Motor Credit Company, LLC

C/o George F. Dunn

5120 Woodway Dr., Suite 9000

Houston, Texas 77056-1725

Fort Bend County

c/o Jeannie Lee Andresen

Linebarger Goggan Blair &amp; Sampson LLP

P.O. Box 3064

Houston, Tx 77253-3064

Fort Bend County

c/o John P. Dillman

Linebarger Goggan Blair &amp; Sampson LLP

P.O. Box 3064

Houston, Tx 77253-3064

Greta Yvette Mobley

1082 County Road 451

El Campo, TX 77437-5593

Independent Bankersbank

c/o Creditors Bankruptcy Service

P.O. Box 800849

Dallas, TX 75380-0849

Internal Revenue Service

Centralized Insolvency Office

P. O. Box 7346

Philadelphia, PA 19101-7346

Lincoln Automotive Fin

Attn: Bankrutcy

PO Box 54200

Omaha, NE 68154-8000

M/G Finance Co., Ltd.

c/o John Seth Bullard

Orgain, Bell &amp; Tucker, LLP

PO Box 1751

Beaumont, TX 77704-1751

MATAGORDA INDEPENDENT SCHOOL DISTRICT

1700 7th Street, Room 203

Bay City TX 77414-5034

MG Finance Co LTD

1655 Louisiana Street

Beaumont, TX 77701-1120

People's United Equipment Finance Corp.

c/o T. Josh Judd

Andrews Myers, P.C.

1885 Saint James Place, 15th Floor

Houston, Texas 77056-4175

Peoples Bank

5820 82nd Street

Lubbock, TX 79424-3617

Quality Lease Rental Service, LLC

c/o REID, COLLINS, & TSAI LLP

1301 S. Capital of Texas Hwy Building C,

Austin, TX 78746-6574

Quality Lease Service, LLC

c/o REID, COLLINS, & TSAI LLP

1301 S. Capital of Texas Hwy Building C,

Austin, TX 78746-6574

Quality Lease and Rental Holdings, LLC

23403B NW Zac Lentz Pkwy

Victoria, TX 77905-0702

Reid, Collins, & Tsai LLP

ATTN: Lisa S. Tsai

1301 S. Capital of Texas Hwy Building C

Austin, TX 78746-6550

Richard E. Borstmayr

c/o Kyle R. Watson

Winstead PC

24 Waterway Ave Suite 500

The Woodlands, TX 77380-3289

Rocaceia, LLC

c/o REID, COLLINS, & TSAI LLP

1301 S. Capital of Texas Hwy Building C,

Austin, TX 78746-6574

Santander Consumer USA

Attn: Bankruptcy 10-64-38-FD7 601 Penn

Reading, PA 19601

Santander Consumer USA, Inc.

d/b/a Chrysler Capital

P.O. Box 961275

Fort Worth, TX 76161-0275

Texas Champion Bank

P.O. Box 270550

Corpus Christi, Texas 78427-0550

Texas Champion Bank

PO Box 2090

Alice, TX 78333-2090

US Trustee

Office of the US Trustee

515 Rusk Ave

Ste 3516

Houston, TX 77002-2604

United States Attorney General

Centralized Insolvency Office

950 Pennsylvania Avenue NW

Washington, DC 20530-0009

United States Attorney General

Internal Revenue Service

1000 Louisiana St Ste 2300

Houston, TX 77002-5010

Wharton County

c/o Julie Anne Parsons

P.O. Box 1269

Round Rock, TX. 78680-1269

Wharton County

c/o Tara LeDay

P.O. Box 1269

Round Rock, Texas 78680-1269

Wood, Boykin, & Wolter

ATTN: Peter E. Avots & Joseph B. Baicum

615 North Upper Broadway, Suite 1100

Corpus Christi, TX 78401-0748

David Michael Mobley

3815 Montgomery Rd

Richmond, TX 77406

Janet Northrup, Chapter 7 Trustee

c/o Heather McIntyre

1201 Louisiana, 28th Floor

Houston, TX 77002-5607

Jerome A Brown

The Brown Law Firm

13900 Sawyer Ranch Rd

Dripping Springs, TX 78620-4539

Melissa A Haselden

Haselden Farrow PLLC

Pennzoil Place

700 Milam

Suite 1300

Houston, TX 77002-2736

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(u)People's United Equipment Finance

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